

§ 38.1

38.4 Procedures for listing products and implementing contract market rules.

38.5 Information relating to contract market compliance.

38.6 Enforceability.

APPENDIX A TO PART 38—APPLICATION GUIDANCE

APPENDIX B TO PART 38—GUIDANCE ON, AND ACCEPTABLE PRACTICES IN, COMPLIANCE WITH CORE PRINCIPLES

AUTHORITY: 7 U.S.C. 2, 5, 6, 6c, 7 and 12a, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

SOURCE: 66 FR 42277, Aug. 10, 2001, unless otherwise noted.

§ 38.1 Scope.

The provisions of this part 38 shall apply to every board of trade or trading facility that has been designated as a contract market in a commodity under section 6 of the Act. *Provided, however,* nothing in this provision affects the eligibility of designated contract markets to operate under the provisions of parts 36 or 37 of this chapter.

§ 38.2 Exemption.

Agreements, contracts, or transactions traded on a designated contract market under section 6 of the Act, the contract market and the contract market's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 38 and §§ 1.3, 1.12(e), 1.31, 1.38, 1.52, 1.59(d), 1.63(c), 1.67, 33.10, part 9, parts 15 through 21, part 40, and part 190 of this chapter.

EFFECTIVE DATE NOTE: At 67 FR 11227, Mar. 13, 2002, § 38.2 was revised, effective Apr. 12, 2002. For the convenience of the user, the revised text is set forth as follows:

§ 38.2 Exemption.

Agreements, contracts, or transactions traded on a designated contract market under section 6 of the Act, the contract market and the contract market's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 38 and §§ 1.3, 1.12(e), 1.31, 1.38, 1.52, 1.59(d), 1.63(c), 1.67, 33.10, 41.27, parts 15 through 21, part 40 and part 190 of this chapter.

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§ 38.3 Procedures for designation by application.

(a) *Application.* A board of trade or trading facility shall be deemed to be designated as a contract market sixty days after receipt by the Commission of an application for designation unless notified otherwise during that period, or, as determined by Commission order, designated upon conditions, if:

(1) The application demonstrates that the applicant satisfies the criteria for designation of section 5(b) of the Act, the core principles for operation under section 5(d) of the Act and the provisions of this part 38;

(2) The application is labeled as being submitted pursuant to this part 38;

(3) The application includes a copy of the applicant's rules and, to the extent that compliance with the conditions for designation is not self-evident, a brief explanation of how the rules satisfy each of the conditions for designation;

(4) The applicant does not amend or supplement the designation application, except as requested by the Commission or for correction of typographical errors, renumbering or other nonsubstantive revisions, during that period;

(5) The applicant identifies with particularity information in the application that will be subject to a request for confidential treatment and supports that request for confidential treatment with reasonable justification; and

(6) The applicant has not instructed the Commission in writing at the time of submission of the application or during the review period to review the application pursuant to procedures under section 6 of the Act.

(b) *Guidance regarding application for designation.* An applicant for contract market designation may meet the following conditions for designation as specified in this paragraph:

(1) *Prevention of market manipulation.* The designation criterion to prevent market manipulation under section 5(b)(2) of the Act also includes the requirement that the designated contract market have a dedicated regulatory department, or delegation of that function;